117-199

No 858.

IN THE

Supreme Court of the United States,

Sept 29

OCTOBER TERM, A. D., 1885.

Error to Supreme Court of Missouri.

John Johnson, Plaintiff in *Error*,
Against
Perrie Keith, Bettie Wolf, George C. Wolf, Mollie Perrie, John Perrie, James Keith and Felix Keith, Defendants in *Error*.

BRIEF OF DEFENDANTS IN ERROR ON MOTION TO DISMISS WRIT OF ERROR.

By F. M. Cockrell, with Wallace & Chiles, their Counsel.

Points and Authorities.

The *writ of error* in this cause should be dismissed because the record and *mandate* of the said Supreme Court of Missouri in this cause, brought up by such *writ of error* shows on the face thereof, that no *final judgment or decree* was rendered or made in this cause by said Supreme Court of Missouri; but on the contrary thereof, it appears from such record and *mandate*, that the judgment and decree of the inferior court, to-wit: The said Circuit Court of Lafayette County, Missouri, was, by such Supreme court of Missouri, *reversed*; and that this cause was by such Supreme Court of Missouri *remanded* to the said Circuit Court of Lafayette County, Missouri, for further proceedings to be had therein, in conformity with the opinion of said Supreme Court of Missouri in this cause delivered. Such *writ of error* was prematurely and improvidently sued out and issued.

See Keith et al, appellants, vs. Keith, 80 Mo. R. page 125.

1st Abbotts, U. S. Prac. (2d ed.), page 325.

Ibid vol. 2, (2d ed.), page 263.

Houston vs. Moore, 3 Wheat, 433.

Winn's Heirs vs. Jackson and others, 12 wheat, 135.

Tracy vs. Holcombe, 24 How, 426.

Maberry vs. Thompson, 5 How, 121.

Sparrow vs. Strong, 4 Wall, 584.

Life Insurance Co. of N. Y. vs. Adams, 9 Pet, 484, at 602.

Porter vs. Foley, 24, How, 415.

Reddell vs. Bryan, 24 How, 421.

F. M. COCKRELL,

WITH

WALLACE & CHILES,

Counsel for Defendants in *Error*.